

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

COACH, INC., a Maryland Corporation;
COACH SERVICES, INC., a Maryland
Corporation,

Plaintiffs,

vs.

PEGASUS THEATER SHOP, an
unknown business entity; SHERL
STOCKING, an individual; and DOES 1-
10, inclusive,

Defendants.

CASE NO. 12-CV-01631-MJP

**DECLARATION OF ETHAN Y. LAU
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT RE DEFENDANTS'
LIABILITY FOR TRADEMARK
INFRINGEMENT**

NOTE ON MOTION CALENDAR:
July 19, 2013

DECLARATION OF ETHAN Y. LAU

I, Ethan Y. Lau, declare as follows:

1. I am a in-house counsel attorney for Coach, Inc. and Coach Services, Inc.

2. I submit this Declaration in support of Plaintiffs' Motion for Partial Summary Judgment for trademark infringement liability against Defendants Pegasus Theater Shops and Sherl Stocking (collectively "Defendants"). The information set forth in this declaration is based upon my personal knowledge, discussions with others at Coach, and reviews of Coach's files concerning this matter.

3. In my capacity as staff attorney for Coach, I am fully familiar with Coach's business activities, business records, products, and the trademarks owned by Coach. I am trained and qualified to authenticate merchandise bearing Coach's trademarks.

4. Coach was founded more than seventy years ago as a family-run workshop in a Manhattan loft. Since that time, Coach has been engaged in the manufacture, marketing, and sale of fine leather and mixed material products including handbags, wallets, travel cases, briefcases, planners and diaries, leather goods, watches, eyewear, footwear, apparel, and accessories. Such sales are made on both a wholesale and retail basis, and through Coach's website, www.coach.com.

5. Coach Services, Inc., Coach, Inc.'s wholly owned subsidiary (hereinafter collectively "Coach"), is the worldwide owner of the trademark "COACH" and various composite trademarks and assorted design components ("Coach Marks").

6. Amongst the many Coach Marks, some of the most well known and recognized marks are the Coach Word Mark, the Signature C Mark, the Amended CC & Design Signature C Mark, the Coach & Lozenge Design, the Heritage Logo, the Coach Stylized Mark, the Coach Est. 1941 Mark, and the Coach & Tag Design (collectively referred to herein as the "Coach Marks.")

7. Coach has used the Coach Word Mark in association with the sale of goods since as early as 1963. Attached hereto and incorporated herein as **Exhibit 1** is a true and correct copy of Coach's registration certificates for the Coach Word Mark, Registration Nos. 1,071,000 and 2,088,706, which has been registered since 1977. This mark is for *inter alia* handbags, luggage, key fobs, tote bags, and clutches.

8. Coach has used the Signature C Mark in association with the sale of goods in its "Signature" line of goods since as early as 2001. The Signature C Mark was first registered at the U.S. Patent and Trademark Office in 2002. Attached hereto and incorporated herein as **Exhibit 2** is a true and correct copy of Coach's registration certificate for the Signature C Mark, Registration Nos. 2,832,589, 2,626,565, and 2,822,318. This mark is for *inter alia* handbags, purses, clutches, tote bags, wallets, clothing, sunglasses, eyeglass cases, leather goods, and fabric for the manufacture of clothing, shoes, handbags, and luggage.

9. Attached hereto and incorporated herein as **Exhibit 3** are true and correct copies of Coach's registration certificates for the Amended CC & Design Signature C mark, Registration No. 3,012,585, which has been registered since 2005. This mark is for *inter alia* handbags, purses, fabrics and clothing.

10. Attached hereto and incorporated herein as **Exhibit 4** are true and correct copies of Coach's registration certificates for the Coach & Lozenge Design mark, Registration No. 2,045,676, which has been registered since 1997. This mark is for *inter alia* handbags, purses, fabrics and clothing.

11. Attached hereto and incorporated herein as **Exhibit 5** are true and correct copies of Coach's registration certificates for the Coach Leatherware Est. 1941 mark ("Heritage Logo"), Registration No. 3,441,671, which has been registered since 2008. This mark is for *inter alia* handbags, leather cases, purses, and wallets.

12. Attached hereto and incorporated herein as **Exhibit 6** are true and correct copies of Coach's registration certificates for the Coach Stylized mark, Registration

No. 3,338,048, which has been registered since 2007. This mark is for *inter alia* luggage, backpacks and shoulder bags.

13. Attached hereto and incorporated herein as **Exhibit 7** are true and correct copies of Coach's registration certificates for the Coach Est. 1941 mark, Registration No. 3,251,315, which has been registered since 2007. This mark is for *inter alia* handbags, small leather goods, jackets and coats.

14. Coach has long been manufacturing and selling in interstate commerce high quality products under the Coach Marks. These registrations are valid and subsisting. Through longstanding use, advertising and registration, the Coach Marks have achieved a high degree of consumer recognition.

15. Coach has achieved billions of dollars of sales annually from goods bearing the Coach Marks. As such, the Coach Marks and the goodwill associated therewith are valuable assets of Coach.

16. Coach and its predecessors have expended over a hundred million dollars in advertising, promoting, and marketing goods featuring the Coach Marks. Due to Coach's long use, extensive sales, and significant advertising and promotional activities, the Coach Marks have achieved widespread acceptance and recognition among the consuming public and the trade throughout the United States. The arbitrary and distinctive Coach Marks serve to identify Coach as the source/origin of the goods on which they appears.

17. In February 2012 private investigator Donald Bambenek visited Pegasus, 1003 First St., Snohomish, Washington, 98290, at the request of Coach Inc. to conduct undercover buys of infringing products. There he purchased a number of products bearing marks identical or similar the Coach Marks (*See Declaration of Donald Bambenek*)

1 18. In or around February of 2012, Donald Bambenek forwarded to me
2 samples of infringing products which were purchased from Defendants on February
3 23, 2012.

4 19. On February 28, 2012 I examined the products purchased by Mr.
5 Bambenek from the Pegasus store, which were forwarded to me for my review: a
6 handbag, a wallet, a watch, a pair of reading glasses and a coin purse bearing Coach
7 registered trademarks.

8 20. After inspecting said products obtained from Defendants, I concluded that
9 they did indeed infringe upon Coach's registered trademarks for the following reasons:

10 (a) Pegasus Theater Shop, is not, and has never been, an authorized
11 retailer of authentic Coach products;

12 (b) The Coach "story patch" on the interior of the handbag examined is
13 inconsistent in both content and style to that of authentic Coach product of similar
14 design;

15 (c) The hardware (buckles, zippers, metal emblem, zipper pull, etc.),
16 interior lining, and stitching used on Defendants' products are not that which are used
17 by Coach in the production of authentic Coach merchandise;

18 (d) Coach does not make the style of watch and coin purse examined;

19 (e) The back of the watch case appears to be missing information
20 required on all watch cases;

21 (f) The interior arm of the glasses appears to be missing information
22 found on all Coach eyewear.

23 (g) The Coach trademarks shown on the items are either incorrect or
24 inconsistent with Coach marks found on authentic Coach merchandise;

25 (h) The overall quality and craftsmanship of the items examined does
26 not meet Coach's high quality standards


1 21. Defendants are not authorized by Coach to manufacture, sell or offer for
2 sale products bearing the Coach Marks or marks which are nearly identical to the
3 Coach Marks. Moreover, none of the Defendants named above are licensees of Coach
4 or in any other manner licensed to import, sell, distribute, or manufacture any
5 merchandise bearing the Coach Marks.

6 22. After inspecting the products obtained from Defendants, I concluded that
7 they did indeed infringe upon Coach's registered trademarks for the reasons set forth in
8 Paragraph 26 above.

9 23. Attached hereto as **Exhibit 8** are true and correct images of authentic
10 Coach products and various components thereof which are comparable to the products
11 forwarded to me by Mr. Bambenek.

12 I declare under penalty of perjury under the laws of the United States of
13 America that the foregoing is true and correct.

14
15 Executed this 12th day of June, 2013, in New York, New York.

16
17
18 
19 _____
20 Ethan Y. Lau
21
22
23
24
25
26
27
28